

### **REMARKS**

Claims 1-27 are pending in the present application. By this amendment, claims 1, 2, 12, 20 and 21 are amended, and claims 16-17 and 23-27 are canceled without prejudice. As a result of this amendment, claims 1-15 and 18-21 will be pending in this case upon entry of this amendment.

This application is a continuation of application 09/326,046 filed June 4, 1999, which was abandoned. An Office Action dated September 19, 1990 was issued in application 09/326,046. This preliminary amendment addresses the rejections to the pending claims raised by the Examiner in that Office Action.

Claim 12 was rejected as being indefinite, Claim 12 has been amended to recite that the tool is made of titanium.

Claims 1-15 and 18-22 stand rejected as being anticipated by Himeno et al. This rejection is no longer applicable as to claims 1-15 in view of the present amendment. Claim 1 has been amended recites "a fluid passage extending co-axially from said proximal end to said distal end and at an angle to said axis to a port." Himeno et al. does not disclose a fluid passage "at an angle to said axis to a port" as recited. The applicant's construction enables the formation of a stronger tip because more material is left on one side of the passage opposite the port from which to construct the tip.

The rejection as to claims 18-22 is traversed, because Himeno et al. does not disclose a method for making a dental tool for use with an ultrasonic transducer using a lathe, which includes the steps of "providing a substantially elongate...shaft having a ...central bore, placing the stock material in a guide bushing of the lathe, bending the distal end section of the stock material to offset the central bore outlet with respect to the axial orientation of the central bore, and turning the stock material in the lathe at the distal end section, thereby producing a dental tool with a working tip and an outlet port to direct fluid onto said tip" as recited in claim 18. This method enables the construction of a tool from tubular stock with sufficient material at the tip to provide a strong working tip.

For the above reasons, it is believed that the application is now in condition for allowance and such action is respectfully solicited.

The Examiner is requested to telephone the undersigned to resolve any remaining issues.

**CONCLUSION**

The present amendment is believed to overcome the rejections presented in the Office Action dated September 19, 2000. Pending claims 1-5 and 18-22 are believed to be allowable and applicant respectfully requests allowance of the claims.

The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to Deposit Account No. 50-1059.

Respectfully submitted,



Carmen Santa Maria  
Reg. No. 33,453

Dated: August 22, 2003

Phone: 717-237-5226

McNees Wallace & Nurick  
100 Pine Street  
P.O. Box 1166  
Harrisburg, Pa 17108-1166